



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG-2022-0064]

RIN 1625-AA00

Safety Zone; Blue Angels at Kaneohe Bay Air Show; Oahu, HI

AGENCY: Coast Guard, Homeland Security (DHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone while the U.S. Navy Blue Angels Squadron conducts aerobatic performances over Kaneohe Bay, Oahu, Hawaii, from 9:00 a.m. through 5:00 p.m., August 12-14, 2022. This safety zone is necessary to protect watercraft and the general public from hazards associated with the U.S. Navy Blue Angels aircraft low flying, high powered jet aerobatics over open waters. Vessels desiring to transit through the zone can request permission by contacting the Honolulu Captain of the Port (COTP) or his designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2022-0064 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Chief Petty Officer Bradley Lindsey, Waterways

Management Division, U.S. Coast Guard Sector Honolulu; telephone (808) 541-4363,
email Bradley.w.lindsey@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On January 27, 2022, Kaneohe Bay Air Show 2022 coordinators informed the U.S. Coast Guard of a State of Hawaii approved Air Show plan that include an aerial performance “show box” extending beyond the Kaneohe Bay Naval Defensive Sea Area as established by Executive Order 8681 of February 14, 1941. Within this “show box,” the U.S. Navy Blue Angels Squadron will conduct aerobatic performances, exhibiting their aircraft’s maximum performance capabilities, over Kaneohe Bay, Oahu, Hawaii, during a 3-day period. Taking into account the hazards associated within this “show box” during the Squadron’s high powered multiple jet aircraft performances, and that Kaneohe Bay normally experiences heavy waterway traffic during the weekends, the COTP determined that a safety zone for the portions of the “show box” that extend beyond the Kaneohe Bay Naval Defensive Sea would be appropriate to ensure the safety of all watercraft and the general public during the Blue Angels’ performances. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP proposes to establish a temporary safety zone while the U.S. Navy Blue Angels Squadron conducts aerobatic performances over Kaneohe Bay, Oahu, Hawaii, from 9:00 a.m. through 5:00 p.m., August 12-14, 2022. This safety zone would

encompass a small area of the Kaneohe Bay Naval Defensive Sea Area, including an area that extends approximately 200 yards northeast and 1000 yards southwest of the Naval Defensive Sea Area and is bound by the following points: 21° 26.159' N, 157° 47.312' W; then south to 21° 25.890' N, 157° 47.250' W; then northeast to 21° 27.943' N, 157° 44.953' W; then west to 21° 28.016' N, 157° 45.250' W; and returning southwest to the starting point. This safety zone will extend from the surface of the water to the ocean floor. These safety zones are necessary to protect watercraft and the general public from hazards associated with the U.S. Navy Blue Angels aircraft low flying, high powered jet aerobatics over open waters. Vessels requiring emergency transit through the zone may request permission by contacting the on scene Patrol Commander on VHF channel 16 (156.800 MHz) or the Honolulu Captain of the Port at telephone number 808-842-2600. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessels will be able to transit in the temporary safety zones with permission from the Honolulu COTP or his designated representative and transit around

the zone freely.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Vessels will be allowed to transit in and around the temporary safety zones in Kaneohe Bay once permission to enter is granted. While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator. Before the effective period, we will issue maritime advisories widely available to the Oahu maritime and tourist communities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the

Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone that extends the Kaneohe Bay Naval Defensive Sea Area on both ends that would prevent vessels from entering the flight paths for the Air Show. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or

recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG- 2022-0064 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS

AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

2. Add § 165.T14-0064 to read as follows:

§ 165.T14-0064 Safety Zone; Blue Angels at Kaneohe Bay Air Show, Oahu, Hawaii.

(a) *Location.* The following area is a safety zone: All waters contained within an area composing of one box on Kaneohe Bay Naval Defensive Sea Area as established by Executive Order 8681 of February 14, 1941, in Kaneohe Bay, Oahu, Hawaii. This safety zone extends approximately 200 yards northeast and 1000 yards southwest of the Naval Defensive Sea Area and is bound by the following points: 21° 26.159' N, 157° 47.312' W; then south to 21° 25.890' N, 157° 47.250' W; then northeast to 21° 27.943' N, 157° 44.953' W; then west to 21° 28.016' N, 157° 45.250' W; and returning southwest to the starting point. This safety zone extends from the surface of the water to the ocean floor. These coordinates are based upon the National Oceanic and Atmospheric Administration Coast Survey, Pacific Ocean, Oahu, Hawaii, chart 19359 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Honolulu (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF channel 16 (156.800 MHz) or the Honolulu Captain of the Port at telephone

number 808-842-2600. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced daily between the hours of 9:00 a.m. through 5:00 p.m., August 12-14, 2022.

Dated: March 21, 2022.

A. B. Avanni,
Captain, U.S. Coast Guard,
Captain of the Port Honolulu.

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